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Serial Number: 09/686,073
Filing Date: October 11, 2000
Title: SALES SYSTEM WITH SALES ACTIVITY FEEDBACK

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REMARKS

This responds to the Office Action mailed on <u>May 8, 2007</u>.

Claims 35 and 37-38 are amended, claim 36 is canceled, and no claims are added; as a result, claims 1-4, 8-15, 32-35, and 37-38 are now pending in this application.

Abstract Objections

The abstract was objected to due to informalities.

The specification of the application has been amended to address the objection. Thus, it is submitted that the objection has been overcome.

Specification Objections

Portions of the specification were objected to due to informalities.

The specification has been amended to address the typographical errors. As such, it is respectfully requested the objection to the specification be withdrawn.

Claim Objections

Claims 35-38 were objected to due to informalities.

Claims 35 and 37-38 have been amended to replace "sales price levels" and "sales price level" by "price choices" and "price choice", respectively. Thus, it is respectfully requested the objections to the claims be withdrawn.

§112 Rejection of the Claims

Claims 35-38 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement.

Claims 35 and 37-38 have been amended to replace "sales price levels" and "sales price level" by "price choices" and "price choice", respectively. The terms "price choices" and "price choice" are supported by the specification of the instant application. Thus, it is respectfully requested the claim rejections under 35 U.S.C. § 112 be withdrawn.

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§103 Rejection of the Claims

Claims 1-4, 8, 12-13 and 32-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Godin et al. (U.S. 5,890,138, hereinafter "Godin") in view of Amazon.com (*http://www.amazon.com/Carbohydrate-Addicts-Lifespan-Parogram-personalized/dp/0525941*, hereinafter "Amazon").

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness for the following reasons:

Even if combined, the cited references fail to teach or suggest all of the elements of Applicants' claimed invention;

The reference (or references when combined) must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). The reference (or references when combined) must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Claim 1 recites the limitation of "communicating, via a network, information to a user interface, the <u>information pertaining to a plurality of price choices for an item</u> offered in a network based sales system." Godin is directed to an auction system "which allows users to participate using their own computers suitably connected to the auction system. Preferably, this connection uses INTERNET. The invention involves a method and system for providing rapid feedback of a reverse auction process and removes the user from the process once an indication to purchase has been received. Rapid feedback in combination with security of information is achieved with the method and auction system." (Abstract) Godin further describes:

> FIG. 1 is an overview of the auction system. With this system a host of users
> shown as 8, access the web site 4 using INTERNET 6 . . . In this way the users
> have access to the web server computers 10 and 12, but only have access to the
> database server through the firewall 20. The database server maintains, amongst
> other things, various database fields . . . these data fields include a UPC code, a
> product description, an auction date and time, a current quantity, <u>a starting price</u>
> <u>for the auction, a closing price for the auction,</u> . . . <u>a minimum cost,</u> . . . <u>a product</u>

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> <u>street price</u>, a product vendor allocation as well as an auction product number.
> The database maintains each of the products with a time designation associated
> therewith as this time designation control is used by the system to determine what
> products can be browsed by the users . . . All products that are slated to be
> auctioned are not listed and browsers are encouraged to return to the web site on
> an ongoing basis to see what new products are to be auctioned in the near future."
> (Col. 3, lines 15-48) (Emphasis Added)

According to the above passage "the users only have access to the database server". The
fields maintained by database servers include "a starting price for the auction, a closing price for
the auction, . . . a minimum cost, . . . a product street price." However, Godin does not disclose
information pertaining to a plurality of price choices. In other words, Godin does not teach
"communicating, via a network, information to a user interface, the information pertaining to a
plurality of price choices for an item offered in a network based sales system," as recited in claim
1. Furthermore, The Office Action, at page 5, admits "Godin failed to disclose, generating a
<u>feedback indication for the item at each of the plurality of price choices using supply and sales</u>
<u>level information generated from the actions of other users of the network based sales system.</u>"
However, the Office Action Alleges that the above claim limitation is disclosed by Amazon.

Applicants disagree with the allegation. Amazon offers different price choices, and
ratings based on customer reviews. Amazon also presents topics such as, "what customers
ultimately buy after viewing this item", "spotlight reviews", "customer reviews", "look for
similar items by category". However, for each item, the above feedbacks are only generated at
one price choice. When presenting <u>other price choices for the same item</u> (e.g., when the user
clicks on "68 used & new available from $0.01" to see other price choices), Amazon only
presents "price + shipping", "condition", "seller information". Nonetheless, Amazon does not
generate a feedback indication for the item <u>at each of the price choices using supply and sales</u>
<u>level information generated from the actions of other users</u>. The generated feedback under seller
information, for example, includes seller rating and comments from the seller related to the item
and not a *feedback indication, using supply and sales level information <u>generated from the</u>*
<u>actions of other users</u>. In other words, Amazon does not disclose *"generating a feedback*
indication for the item at each of the plurality of price choices using supply and sales level

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information generated from the actions of other users of the network based sales system," as recited in claim 1. As such, Amazon fails to cure the deficiency in Godin. Thus, at least for the reasons set forth above, Godin and Amazon, individually or in the combination, do not teach each and every element of claim 1. Accordingly, Applicants respectfully submit that independent claim 1 and its dependent claims 2-4, 8, and 32-33 are allowable. As such, it is requested the claim rejections under 35 U.S.C. § 103(a) be withdrawn.

The same arguments as presented with respect to claim 1are also applicable to a consideration of claim 11. As such, at least for the same reasons set forth above, claim 11 and its dependent claims 12-13 are not rendered obvious by the combination of Godin and Amazon. Thus, it is requested the claim rejections under 35 U.S.C. § 103(a), over Godin in view of Amazon, be withdrawn.

Claims 9-10 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Godin in view of Amazon.com and further in view Fisher et al. (U.S. 5,835,896), hereinafter Fisher.

Claims 9-10 and 14 are dependent on claims 1and 11, respectively. Thus, they are deemed to include the same limitation discussed above. As such, at least for the same reason noted above, claims 9-10 and 14 are not rendered obvious by the combination of Godin and Amazon. Accordingly, Godin in view of Amazon.com and further in view Fisher does not render the claims obvious. Therefore, it is respectfully submitted that claims 9-10 and 14 are allowable under 35 U.S.C. § 103(a).

Claims 11 and 34-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fisher in view of Amazon.com.

Claim 11 recites, "the user interface including[:]an item identification area responsive to the sales server via the network and to display information pertaining to a plurality of price choices of a selected item." Fisher describes "[a] system and method for conducting a multi-person, interactive auction, in a variety of formats . . . The system allows a group of bidders to interactively place bids over a computer or communications network . . . the bidders are updated with the current auction status information. When appropriate, the system closes the auction from further bidding and notifies the winning bidders and losers as to the auction outcome." The

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Office Action at page 8 asserts that the above claim 11 limitation is disclosed by Fisher in Fig. 2 and the following passage:

> By pressing bid button 1 in FIG. 2, the customer is presented with a bid form such as the one shown in FIG. 3. The customer fills out the required information in the bid form and presses "Place Bid" button 2 to send the bid to the electronic auction system for processing . . . information from bid form 20 is received by the electronic auction system where it is processed by bid validator 21. Bid validator 21 examines the bid information entered by the customer . . . Once the bid information has been validated, the bid validator 21 places the bid in bid database 31."
>
> (Col.7, lines 42-65)

Figure 2 illustrates an Auction listing information for a Cordless 10-channel Phone Model 5400. The depicted auction listing information includes list price, minimum bid, bid increment, quantity available, auction closing date and time, sales format, list of current high bidders, and features of the cordless phone Model 5400. In the above passage (Col.7, lines 42-65), Fisher states that the customer is presented with a bid form, the customer fills out the required information in the bid form and once the bid information has been validated, the bid validator places the bid in bid database. However, Fig. 2 and the above cited quote do not disclose displaying *information pertaining to a plurality of price choices of a selected item*. In other words, Fisher does not teach the claim 1 element of *"the user interface including[:]an item identification area responsive to the sales server via the network and to display information pertaining to a plurality of price choices of a selected item."* Amazon was analyzed above. However, Amazon does not disclose the above limitation, specifically, *the user interface including an item identification area.* Accordingly, Fisher and Amazon, individually or in combination fail to teach each and every element of claim 11. As such, the references do not render claim 11 and its dependent claim 34 obvious. Thus, claims 11 and 34 are allowable under 35 U.S.C. § 103(a) over Fisher and Amazon.

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Claims 35, as amended, recite the limitations of "receiving from the user a request to alert the user when the item reaches a price choice selected by the user;" and "communicating a reminder message to the user when the item reaches a price choice selected by the user." The Office Action at page 9 admits that "Fisher and Amazon failed to disclose" the above limitations.

As such, it is respectfully submitted that claim 35 is allowable and it is requested the claim rejection under 35 U.S.C. § 103(a) over Fisher and Amazon be withdrawn.

Claim 37, as amended, recites the limitation of "communicating a message to a user based on a price choice for the item reaching a threshold value associated with one of the plurality of price choices." This limitation is not addressed by the Office Action. However, Applicants could not find any passage in Fisher and Amazon which teach the same limitation.

Therefore, at least for the reasons set forth above, independent claim 37 and its dependent claim 38 are allowable. Thus it is requested the claim rejections under 35 U.S.C. § 103(a) over Fisher and Amazon be withdrawn.

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RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

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CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at 408-278-4053 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this __31__ day of July 2007.

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Signature